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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

KATHRYN BLISS,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 2008 CV 923
)	
HARINAM EXPRESS LLC., and)	Judge: Dow, Jr.
PETER CORBETT,)	
)	Magistrate Judge: Valdez
Defendants.)	

MOTION FOR LEAVE TO FILE

Now comes Defendants, HARINAM EXPRESS LLC and PETER CORBETT, by and through their attorneys, HAYNES, STUDNICKA, KAHAN & O'NEILL, LLC, and moves this Honorable Court for an order granting it leave to file its Counterclaim for Contribution against Pier One, Inc.

Respectfully submitted,

HAYNES, STUDNICKA, KAHAN, O'NEILL & MILLER,

/s/ Shimon B. Kahan - ARDC No. 6207172

Haynes, Studnicka, Kahan, O'Neill & Miller, LLC
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KATHRYN BLISS,)
Plaintiff,)
vs.) Case No. 2008 CV 923
HARINAM EXPRESS LLC., and)
PETER CORBETT,) Judge: Dow, Jr.
Defendants.) Magistrate Judge: Valdez

HARINAM EXPRESS LLC., and)
PETER CORBETT,)
Counter-Plaintiffs,)
vs.)
PIER ONE, INC.,)
Counter-Defendant.)

COUNTERCLAIM FOR CONTRIBUTION AGAINST PIER ONE, INC.

Now comes Defendants/Counter-Plaintiffs, HARINAM EXPRESS, LLC and PETER CORBETT, by and through their attorneys Shimon B. Kahan of HAYNES, STUDNICKA, KAHAN, O'NEILL & MILLER, LLC, and for their *Counterclaim for Contribution Against Pier One, Inc.*, states as follows:

COUNT II

1. That the Plaintiff, KATHRYN BLISS, has filed a Complaint at Law against Defendants, HARINAM EXPRESS, LLC and PETER CORBETT, alleging injuries and damages in a forklift accident that took place on or about October 23, 2007. See Plaintiff's Complaint at Law, incorporated herein as though fully set forth.

2. The Defendants/Counter-Plaintiffs, HARINAM EXPRESS, LLC. and PETER CORBETT, have filed an Answer to said Complaint at Law, denying all material allegations therein.

3. That at said time and place described in Plaintiff's Complaint at Law, the Plaintiff, KATHRYN BLISS alleges she was lawfully on the premises owned, controlled, and/or operated by Counter-Defendant, PIER ONE, INC., and located at 600 Kirk Road, St. Charles, Illinois and was performing her duties as an employee of Counter-Defendant, PIER ONE, INC.

4. That at said time and place described in Plaintiff's Complaint at Law, the Plaintiff was utilizing a forklift owned by Counter-Defendant, PIER ONE, INC., to unload cargo onto a closed dock from the trailer operated by Defendants/Counter-Plaintiffs, HARINAM EXPRESS, LLC. and PETER CORBETT.

5. That at said time and place described in Plaintiff's Complaint, Counter-Defendant, PIER ONE, INC., was under a duty to exercise ordinary care for the safety of its employees and to follow all federal regulations and standards relating to forklift operation.

6. That despite said duty of care the Counter-Defendant, PIER ONE, INC., was then and there guilty of one or more of the following careless and negligent acts and/or omissions:

- a. Failed to provide wheel chocks to prevent the Defendants/Counter-Plaintiffs truck from moving while boarded with aforesaid forklift in violation of 29 CFR 1910.178 (k)(1);
- b. Failed to provide, adequately maintain, or utilize any positive mechanical means to correct the Defendants/Counter-Plaintiffs truck to the dock/facility;
- c. Failed to properly supervise Plaintiff, KATHRYN BLISS, at said time and place described in Plaintiff's Complaint;
- d. Failed to properly train Plaintiff, KATHRYN BLISS, in the operation and use of said forklift and safe loading/unloading procedures;
- e. Failed to provide and utilize a safety or warning system; and
- f. Was otherwise negligent and careless.

7. As a proximate result of one or more of the foregoing negligent acts and/or omissions of Counter-Defendant, PIER ONE, INC., Plaintiff, KATHRYN BLISS, alleges that she suffered injuries of personal and pecuniary nature for which she has filed suit against Defendants/Counter-Plaintiffs, HARINAM EXPRESS, LLC and PETER CORBETT

8. In the event that Defendants/Counter-Plaintiffs, HARINAM EXPRESS, LLC and PETER CORBETT, are found liable to the Plaintiff, pursuant to 740 ILCS 100-1 et seq., Defendants/Counter-Plaintiffs, HARINAM EXPRESS, LLC and PETER CORBETT, are entitled to contribution from the Counter-Defendant, PIER ONE, INC., in an amount commensurate with the degree of fault found attributable to the Counter-Defendant, PIER ONE, INC., in causing the accident, damages, injuries and losses claimed by Plaintiff, KATHRYN BLISS.

WHEREFORE, Defendants/Counter-Plaintiffs, HARINAM EXPRESS, LLC and PETER CORBETT, pray that the Defendant/Counter-Defendant, PIER ONE, INC., be required to contribute to the satisfaction of any judgment or of any settlement of the Plaintiff, KATHRYN BLISS, should one be entered against the Defendants/Counter-Plaintiffs, HARINAM EXPRESS, LLC and PETER CORBETT, an amount commensurate with Counter-Defendant's pro rata share of settlement or judgment, based upon the relevant capability for the damages sustained by the Plaintiff herein.

DEFENDANTS/COUNTER-PLAINTIFFS DEMAND TRIAL BY JURY.

Respectfully submitted,

HAYNES, STUDNICKA, KAHAN, O'NEILL & MILLER, LLC

/s/ Shimon B. Kahan - ARDC No. 6207172

Haynes, Studnicka, Kahan, O'Neill & Miller, LLC
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VERIFICATION

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters herein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.

/s/ Shimon B. Kahan - ARDC No. 6207172

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